



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JLP:ddj

Docket No: 7218-99

21 March 2000

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

[REDACTED]

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 21 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum 1780 PERS 604 of 1780 PERS 604 of 25 January 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1780
PERS-604
25 Jan 00

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO [REDACTED]

Ref: (a) CNPC memo 5420 PERS-00ZCB of 20 Jan 00
(b) Title 38, United States Code, Chapter 34
(c) Title 38, United States Code, Chapter 30

1. The following is provided in response to reference (a):

a. Eligibility for Federally Legislated Education Benefit Programs is determined by the member's initial entry onto active duty. Per reference (b), the educational program available to Mr. [REDACTED] when he entered active duty 26 November 1976 with the U.S. Air Force was the Vietnam Era GI Bill (VEGIB). Opportunity to draw educational benefits from VEGIB Program ended on 31 December 1989.

b. Per reference (c), the Montgomery GI Bill (MGIB) Program is the educational benefit program available to servicemembers who enter active for the first time on or after 1 July 1985. Since [REDACTED] initially entered active duty prior to that date, he was not eligible to enroll in the MGIB Program when he re-entered active duty with the U.S. Navy on 10 September 1986.

c. On 1 January 1990, certain Vietnam Era members were converted automatically from the VEGIB Program to the MGIB Program. To be eligible for the conversion members had to:

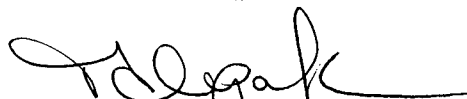
(1) Have remaining entitlement for educational assistance under the VEGIB.

(2) Have been on active duty any time between 19 October 1984 and 1 July 1985 and served continuously from that date to 30 June 1988 or 30 June 1987 followed by four years in the Selected Reserve. [REDACTED] did not meet the above requirements and therefore, was not eligible for the conversion to the MGIB Program.

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO [REDACTED]
[REDACTED]

d. Since [REDACTED] educational benefit program was the VEGIB Program and by law, he was not eligible for conversion to the MGIB Program, this office recommends denial of Mr. Robinson's petition to receive MGIB Program benefits.

2. PERS-604's point of contact is [REDACTED] who can be reached at (DSN) [REDACTED] or (C) [REDACTED]



T. J. CERAK
Captain, U.S. Navy
Director, Navy Drug & Alcohol,
Fitness, Education, and
Partnerships Division (PERS-60)